

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:)	
	)	Bky. No. 03-40673-NCD
Cristina Renee Hanson,	)	Chapter 7
)	
	)	DEBTOR'S RESPONSE TO
	)	TRUSTEE'S MOTION OBJECTING
Debtor.	)	TO EXEMPT PROPERTY

TO: U.S. Bankruptcy Court; Julia A. Christians, Chapter 7 Trustee; Habbo G. Fokkena, U.S. Trustee; and any other party entitled to notice.

1. Cristina Renee Hanson, the debtor in this chapter 7 case, through her attorney, Craig W. Andresen, hereby submits the following response to the chapter 7 trustee's motion objecting to her exemption of her personal injury cause of action. The debtor requests that the court overrule the trustee's objection and approve the exemption.

2. The court will hold a hearing on this motion on **August 4, 2004, at 2:30 p.m.**, in Courtroom No. 7 West, U.S. Bankruptcy Court, U.S. Courthouse, 300 South Fourth Street, Minneapolis, Minnesota.

3. When the debtor filed this chapter 7 case, she inadvertently, and through excusable neglect, failed to list her personal injury cause of action. A little over one year later, the debtor and her personal injury attorney realized the error and immediately informed the chapter 7 trustee of the omission. Some weeks later, the debtor filed an amendment to her Schedule C, claiming the personal injury cause of action at least partially exempt. The chapter 7 trustee objected to the claim of exemption, apparently claiming the debtor acted in bad faith and/or wrongfully concealed the asset from the

trustee. However, the debtor's mistake in not listing the asset was unintentional and not done in bad faith. And, the debtor notified the trustee of the asset immediately upon learning that the personal injury cause of action should have been scheduled in the bankruptcy petition. Indeed, the chapter 7 trustee learned of the asset's existence from the debtor through her attorneys' notification to the chapter 7 trustee.

4. Accordingly, the debtor is entitled to claim her amended exemption. The trustee has cited no other grounds for the court's disapproval of the amendment. Therefore, the trustee's motion should be denied and the debtor's claim of exemption should be sustained.

Respectfully submitted,

July 29, 2004
Date

/e/ Craig W. Andresen
Craig W. Andresen, #186557
Attorney for Debtor
2001 Killebrew Dr., Suite 330
Bloomington, MN 55425
(952) 831-1995

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:)	
	)	Bky. No. 03-40673-NCD
Cristina Renee Hanson,	)	Chapter 7
)	
	)	DEBTOR'S MEMORANDUM OF LAW
	)	AND FACT IN SUPPORT OF
Debtor.	)	AMENDMENT OF EXEMPTION

TO: U.S. Bankruptcy Court; Julia A. Christians, Chapter 7 Trustee; Habbo G. Fokkena, U.S. Trustee; and any other party entitled to notice.

1. Cristina Renee Hanson, the debtor in this chapter 7 case, through her attorney, Craig W. Andresen, hereby submits the following memorandum in support of her response to the chapter 7 trustee's motion objecting to her amended exemption.

2. On or about January 31, 2002, the debtor was involved in an automobile accident. She retained attorney Michael Marks of Milavetz & Associates to represent her. During 2002, the debtor missed work and had medical bills due to injury suffered in the accident. In part, this led to her decision to file a chapter 7 bankruptcy case. Mr. Marks referred her to bankruptcy attorney Craig Andresen. Mr. Marks and Mr. Andresen are well known to each other professionally. They have consulted on cases together and have referred clients to one another. Mr. Marks assured the debtor that Mr. Andresen was a capable bankruptcy attorney, and that they would see to it that the injury case was protected as part of the bankruptcy. To the debtor, this meant that the personal injury matter required no further special attention from her, and that the lawyers would do whatever was necessary to inform the court or the trustee about the matter with no further input from her. Soon afterward, Mr. Marks left the Milavetz law firm, leaving

the debtor's personal injury file with Milavetz associate attorney Gregory S. Malush. The debtor does not know whether Mr. Marks or Mr. Malush undertook to notify her bankruptcy attorney of the personal injury case, as she believed they would do. Her bankruptcy attorney does not recall discussing the injury case with either of them prior to May 2004.

3. When the debtor filed her chapter 7 case on January 28, 2003, the schedules made no mention of the personal injury claim. Until very recently, meaning the last few weeks, the debtor states that she does not very well understand the legal term "claim." She did not know until recently that the car accident case meant that she had a "personal injury claim." She thought she only had a right to medical bill and wage loss reimbursement. These phrases do not appear on the bankruptcy forms, and therefore she did not think to mention the car accident case on the bankruptcy forms. Furthermore, she thought that her personal injury and bankruptcy lawyers, who she believed to be close professional associates, would have told her to list the car accident case if it were necessary.

4. The debtor does not recall being asked about the car accident case at the creditors meeting conducted by Julia Christians. The debtor does not know if she verbally informed the trustee of her car accident case at the creditors meeting. In July 2004, after the trustee filed her objection to the exemptions, the trustee informed the debtor's bankruptcy attorney that she had not listened to the tape of the section 341(a) meeting, and that she had no plans to do so. Therefore, it is not known whether the tape of the proceedings shows that the debtor informed the trustee of the asset. However, apparently neither the trustee's nor the bankruptcy attorney's files show that

such information was discussed. It appears likely that if it were, the schedules would have been amended at that time.

5. During the pendency of this chapter 7 case, and during the entire time subsequent to this chapter 7 case, the debtor has received no money from the motor vehicle accident case. To her knowledge, only some of her medical bills have been paid. She is aware that her personal injury attorney has been working on a settlement with the insurance company.

6. In the spring of 2004, the debtor met with her personal injury attorney Greg Malush. Mr. Malush informed the debtor that he was surprised and dismayed to discover that her bankruptcy filing contained no mention of her personal injury case. The debtor and Mr. Malush agreed that this problem must be addressed and remedied immediately. To that end, on or about noon, on Saturday, May 1, 2004, Mr. Malush telephoned Mr. Andresen to inform him that apparently the bankruptcy schedules would need to be amended. The attorneys agreed that because Mr. Malush was in possession of all the materials relating to the personal injury claim, that he ought to immediately provide the trustee with whatever documentation she requested. Mr. Andresen informed Mr. Malush that time was of the essence and that the trustee should be notified immediately without waiting for any formal amendments to be filed with the bankruptcy court. Accordingly, Mr. Malush was supplied with the trustee's telephone number so he could contact the trustee the following Monday to inform her of the existence of the asset.

7. Several days later, Ms. Hanson informed Mr. Andresen that Mr. Malush had notified the trustee about the personal injury case. The debtor was apprehensive over

the failure to list the asset when the bankruptcy was originally filed. She expressed hope that since she voluntarily notified the trustee of the asset, albeit belatedly, that the court would not take her personal injury case away from her. She stated she now understood her obligations to the bankruptcy court regarding the personal injury case, and that she would therefore produce the information as requested on an ongoing basis in the future.

8. On May 10, 2004, the debtor visited her bankruptcy attorney's office and signed her Amended Schedule C. Because the chapter 7 case had not yet been reopened, and because the chapter 7 trustee had already been notified of the existence of the personal injury case, the debtor's bankruptcy attorney did not view the timing of the filing of the amendment to Schedule C as being overly important. Therefore, the amendment was not filed with the court until June 29, 2004.

9. On or about May 18, 2004, the debtor's bankruptcy attorney discussed the debtor's personal injury case over the telephone the chapter 7 trustee. On that same day, the debtor's bankruptcy attorney faxed or mailed several documents regarding the personal injury case to the trustee at her request. These documents had recently been obtained from Mr. Malush.

10. On May 21, 2004, the trustee filed an application to reopen the debtor's chapter 7 case to administer the personal injury case.

11. On or about May 27, 2004, the trustee mailed to the debtor's personal injury attorney, Greg Malush, an application for his appointment by the bankruptcy court as attorney for the bankruptcy estate. At the very least, this appears improper because obviously Mr. Malush has interests which are materially adverse to the estate.

12. In July 2004, shortly after the trustee received the debtor's Amended Schedule C, the trustee objected to the debtor's amendment claiming the debtor had acted in bad faith.

13. The situation in the case at hand may be summarized as follows: the debtor had a car accident in which she had some personal injury and no fault insurance claims; she hired an attorney to represent her in that matter who later referred her to a personal bankruptcy attorney; based upon the attorneys' professional relationship and the statements made by the referring attorney, the debtor believed that the attorneys would handle the personal injury matter in the appropriate way with respect to the bankruptcy case without any further input or actions by her; at the time that the bankruptcy was filed, the debtor did not otherwise understand that the bankruptcy forms called for the listing of a past car accident, where no lawsuit had been filed, and where she only received some reimbursement for out-of-pocket expenses; therefore the personal injury case was not listed in the bankruptcy schedules; it is unknown whether the debtor referred to the personal injury case at the section 341(a) meeting because, upon information and belief, neither the trustee nor anyone else has listened to the tape recording made of the proceedings; approximately one year after the chapter 7 case was concluded, the debtor, through both her personal injury and bankruptcy attorneys voluntarily disclosed the existence of the personal injury case to the chapter 7 trustee immediately upon realizing her mistake in omitting such asset from her bankruptcy schedules. It should be noted that the chapter 7 trustee learned of the existence of the asset from the debtor, rather than having been informed from some other source. The chapter 7 trustee filed her application to reopen this case after she was informed by the

debtor of the existence of asset. There appear to few, if any, reported cases in which a bankruptcy debtor who voluntarily disclosed the existence of an asset to the trustee, even where such asset was initially omitted from the schedules, was denied the opportunity to amend to schedules to claim an exemption later.

14. The three cases cited by the chapter 7 trustee in her objection involved dishonest bankruptcy debtors who were quite properly denied the opportunity to amend their schedules to claim exemptions. In re Park, 246 B.R. 837 (Bky. Ed. D. Tex. 2000), involved a bankruptcy debtor who had his discharge revoked under section 727. In Park the debtor filed no less than five amended schedules which the court characterized as evidencing “blatant dishonesty,” Park at 840, presenting a “constantly shifting landscape,” Park at 841. In Park it was the trustee who discovered the unscheduled asset, in contrast to the case at hand in which the debtor voluntarily disclosed the asset to the trustee.

15. In re St. Angelo, 189 B.R. 24 (Bky. D. R. I. 1995), involved a bankruptcy debtor who filed a chapter 13 case, converted the case to a chapter 11, then had the case converted to chapter 7 upon the U.S. Trustee’s motion. In all three sets of schedules filed, the debtor failed to list the asset on Schedule B or C. The debtor made a vague and obfuscatory reference to the injury case on the Statement of Financial Affairs, but the court found that the reference was so misleading as to constitute dishonesty. St. Angelo at 25. The statement “the debtor has not pursued” the case was found by the court to be deliberately misleading. Also, the trustee learned of the asset after having been mailed a check for \$75,000.00 by her injury/bankruptcy attorney. That attorney had been under investigation by the U.S. Trustee, and he mailed the check

to the trustee after being ordered to file an accounting with regard to Mr. St. Angelo's bankruptcy case. Whereas the St. Angelo case involved a debtor who actively deceived the bankruptcy court through intentionally misleading statements, the case at hand involves a debtor who did not understand the requirement to list the asset, and who immediately notified the trustee of the existence of the asset once she realized her duties to the court.

16. Likewise, the case of In re Miller, 255 B.R. 221 (Bky. D. Neb. 2000), provides no support for the chapter 7 trustee's position. In Miller the assets consisted of sound equipment used by a church, including amplifiers, speakers, microphones, a voice mixer, and similar equipment. The equipment was valued at \$3,060.00. The Miller court noted that the debtors never informed the trustee of the asset, but rather, a creditor of the Millers' discovered the existence of the assets during a Rule 2004 examination, see Miller at 223, and the court made a finding of fact that the debtors "intentionally concealed" the asset from the trustee, see Miller at 224. Once again, this should be contrasted with the present case in which the bankruptcy debtor voluntarily revealed the asset to the chapter 7 trustee, albeit belatedly, rather than waiting until the asset was discovered by other parties.

17. The Fifth Circuit Court of Appeals has held that a bankruptcy debtor should not be judicially estopped from amending bankruptcy schedules to remove a valuable claim from the bankruptcy estate only when the mistake was inadvertent. "Inadvertence," means, in general, the debtor either lacks knowledge of the undisclosed claim or has no motive for its concealment. In re Coastal Plains, Inc., 179 F.3d 197 (5th Cir. 1999), at 210. In Coastal Plains, the court denied the opportunity to amend the

schedules where the chapter 11 debtor repeatedly filed court pleadings which omitted a claim worth up to \$10 million against another party; and where bankruptcy court litigation was actually decided by the bankruptcy court based upon the incomplete information intentionally omitted by the debtor which was never voluntarily disclosed to the court.

The Coastal Plains court distinguished its ruling from Ryan Operations G.P. v. Santium – Midwest Lumber Co., 81 F.3d 355 (3rd Cir. 1996). In Ryan the court ruled there was no bad faith because the debtor's actions subsequent to filing its schedules, including obtaining authorization from the bankruptcy court to pursue the claims, were inconsistent with an intent to deliberately conceal them. Ryan at 364 - 365. This suggests there is no intent to conceal an asset if the debtor corrects the record. In the case at hand, the debtor did indeed correct the record by notifying the trustee of the existence of the asset before anyone else did.

18. In Payne v. Wood, 775 F.2d 202 (1985), the Seventh Circuit stated that the debtors could not amend their exemptions where they intentionally hid assets from the court. The debtor had testified he deliberately omitted the asset in a misguided effort to avoid losing it in the bankruptcy. Payne at 205. As noted above, there seem to be no reported decisions where a bankruptcy debtor who initially failed to list an asset was denied the opportunity to amend his exemptions, where the debtor subsequently voluntarily disclosed the asset.

19. The debtor's position in this case is further supported by In re Williams, 197 B.R. 398 (Bky M.D. Ga. 1996). In Williams the debtor failed to list his age discrimination claim from the bankruptcy schedules, then attempted to claim it exempt in his converted chapter 7 proceeding after the chapter 13 trustee had objected to confirmation of his

plan. The court allowed the amendment to exemption even though, apparently, it was the chapter 13 trustee who discovered the omission by his own efforts. Williams at 400. Instead, the court credited the debtor's testimony that he did not know he should list the asset. The debtor testified as follows:

It wasn't an asset that I knew about. I didn't know it would be listed as an asset in a chapter 13.... I told my attorney about the asset or the lawsuit and that I wanted to pay back all my creditors.... I want you to know that the bankruptcy attorney knew about the lawsuit from day one. Williams at 404.

The court therefore was not persuaded that the debtor attempted to conceal his cause of action. Williams at 404.

20. In the case at hand, the bankruptcy debtor failed through a combination of circumstances to list an important asset in the bankruptcy schedules. This failure was, to put it mildly, regrettable. Mr. Andresen and Ms. Hanson offer their apologies to the trustee, the court, and any other party inconvenienced by the omission. However, the fact remains that the debtor did notify the chapter 7 trustee of the existence of the asset, and that is how the trustee learned of its existence. The administration of this case will not be affected by the debtor's belated disclosure and claim of exemption in the asset and that is how the trustee learned of its existence. The debtor therefore requests that the court overrule the trustee's objection, and that her amendment to exemptions be allowed.

Respectfully submitted,

July 29, 2004
Date

/e/ Craig W. Andresen
Craig W. Andresen, #186557
Attorney for Debtor
2001 Killebrew Dr., Suite 330
Bloomington, MN 55425
(952) 831-1995

VERIFICATION

I, **Cristina Renee Hanson**, the debtor herein, declare under penalty of perjury that the foregoing Response, Memorandum, and attached Exhibits are true and correct to the best of my knowledge.

July 29, 2004
Date

/e/ Cristina Renee Hanson
Debtor

VERIFICATION

I, **Craig W. Andresen**, attorney for the debtor, declare under penalty of perjury that the foregoing Response and Memorandum are true and correct to the best of my knowledge.

July 29, 2004
Date

/e/ Craig W. Andresen
Craig W. Andresen, #186557
Attorney for Debtor

ROBERT J. MILAVETZ
JONATHAN D. GALLOP **
ALAN S. MILAVETZ
STEVEN B. LEVINE
BARBARA N. NEVIN
GREGORY S. MALUSH *
MICHAEL E. MARKS
JOSEPH RYMANOWSKI, JR. **
ROBERT P. PURTELL
VAN HOLSTON
ERIC R. LEE
CHRISTOPHER S. PETROS
*ALSO LICENSED IN IL AND MO
**OF COUNSEL

MILAVETZ, GALLOP & MILAVETZ, P.A.

ATTORNEYS AT LAW

1915 - 57th AVENUE NORTH
BROOKLYN CENTER, MINNESOTA 55430

TOLL FREE: 1-800-365-6666
FAX: (763) 560-3908

lawpage.com

PARALEGALS:
DALE B. ZILLHART
DIANE M. MCCABE
LAURA M. CRAWFORD
JULIAN SANTANA

INVESTIGATORS:
MATTHEW W. BRINKMAN
PATRICK O. SHAEFFER

Michael E. Marks
(763) 560-0003

December 26, 2002

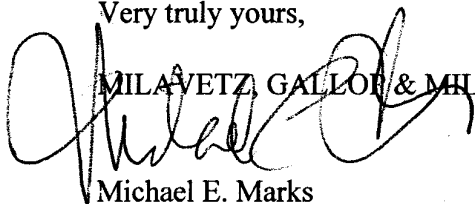
Ms. Cristina R. Hanson
3010 Winnetka Avenue, Apt. 227
Crystal, Minnesota 55427

Re: Our File No.: 30577
Date/Injury: 1/31/02

Dear Ms. Hanson:

As a follow up to our telephone conversation last Tuesday, December 17, 2002, please let this letter reconfirm that Ms. Nevin and I have concluded that the law firm has a conflict doing your bankruptcy, and I gave you the name of Mr. Craig Andresen as a contact I can recommend. I gave you a phone number of (952) 831-1995, and I asked you to identify me as your personal injury lawyer. He and I have worked together. His address, as a point of information is Suite 203, 4445 West 77th Street, Edina. I believe you will find his office quite convenient.

Very truly yours,


MILAVETZ, GALLOP & MILAVETZ, P.A.
Michael E. Marks

MEM:jlj
/hanson.d26

Greg stated that I
should have told
Craig about my settle
ment and Doctors
I've seen (bills) any
way. But I assumed
that ~~Mike told him~~
Craig was aware of it
from the beginning.

Exhibit A

MILAVETZ, GALLOP & MILAVETZ, P.A.

ATTORNEYS AT LAW

1915 - 57th AVENUE NORTH
BROOKLYN CENTER, MINNESOTA 55430

TOLL FREE: 1-800-365-6666
FAX: (763) 560-3908

lawpage.com

LEGAL ASSISTANTS:

DALE B. ZILLHART
AMY WESTBY
LAURA M. CRAWFORD
JULIE L. BUTTRAM
JULIAN SANTANA*
DARCI JO KING
KRISTINA M. ARTHUR
DAWN M. SKOOG

*SE HABLA ESPANOL

INVESTIGATORS:

PATRICK O. SHAEFFER

ROBERT J. MILAVETZ
JONATHAN D. GALLOP **
ALAN S. MILAVETZ
STEVEN B. LEVINE
BARBARA N. NEVIN
GREGORY S. MALUSH
JOSEPH RYMANOWSKI, JR. **
ERIC R. LEE
CHAD WM. SCHULZE
ADAM C. WADD
**OF COUNSEL

Gregory S. Malush
(763) 560-0002

February 18, 2004

Mr. Craig Andresen
4445 W. 77th St., Suite 203
Edina, MN 55435

RE: Our Client: Cristina Hanson
Our File No.: 30577
Case No.: 03-40673-NCD

FEB 24 2004

Dear Mr. Andresen:

Enclosed, please find a copy of the printout from Therapy Partners.

If you have any questions or concerns, please do not hesitate to call. Thank you for your attention in the following matter.

Very truly yours,

MILAVETZ, GALLOP & MILAVETZ, P.A.

Gregory S. Malush

GSM:kma

Enclosures: Printout from Therapy Partners

c: Cristina Hanson

\hanson.fl8

Exhibit B-1

THERAPY PARTNERS, INC
2399 ARIEL ST STE B
MAPLEWOOD MN 55109
DETAIL

651 748 4338

FEB 12 2004

PRINTED 2/10/04 13.19 BY ALM200

```
=====
0- 30 days      0.00  CRISTINA      R HANSON      Home 763 489 1313
31- 60 days     0.00  18265 263RD AVE NW      Work
61- 90 days     0.00                                     PT-0001 BC-0002
91-120 days     0.00  BIG LAKE      MN 55309      CS-0000 DR-0191
121-150 days    0.00  ~~~~~
150+   days     0.00  CRISTINA      R HANSON      F-01/14/78- 26-SAU593181
Next app't
~~~~~
Total bal      0.00
- Pending      0.00
= Pat bal      0.00
Budget due     0.00
Nonbud due     0.00
Total due      0.00  Last chg 080103  126.88 Last ins pay 090303  0.00
Budget bal     0.00  SSN:                Last per pay 121503  25.00
Bud paymnt     0.00  Diag:7231  PAIN NECK / CERVICALGIA
Last aging     02/10/04  Reg date 021103 PATIENT HAS NOTES
Review date    04/09/03
Insurance      Subscriber      Subscriber Policy id      TB PR
WESTERN NATIONA HANSON  CRISTIN 0300258465      IY-02
=====
```

```
~~~~~
Tick# 697749 U 940      CRISTINA      HANSON      Total: 0.00
03/03/03 191-LARKIN PT      SAUNDERS EDINA
-LINE DETAIL-
022803-022803 61000 - -NEW PATIENT NA -NA NNN 1.00 0.00
-SUMMARY-
```

```

Status DONT FILE *Balance* .00
Paid .00 .00 .00 Expected .00 Ins .00
W/O .00 .00 .00 Personal .00 Pat .00
Pat paid to print on form .00 Other pd .00
=====
```

```
Tick# 734907 U 941      CRISTINA      HANSON      Total: 191.84
04/09/03 191-LARKIN PT      CLARK DC      SAUNDERS EDINA
-LINE DETAIL-
040803-040803 97001 - -EVAL NEW 723.1 -PAIN NECK / YYY 1.00 105.00
040803-040803 97110 - -THER EX 723.1 -PAIN NECK / YYY 1.00 40.00
040803-040803 97140 -59-MANUAL THER 723.1 -PAIN NECK / YYY 1.00 44.00
040803-040803 97799 - -TAX 723.1 -PAIN NECK / YYY 1.00 2.84
-RECEIPTS-
Date Type Claim # Receipt # Batch User Data Amount Applied
05/23/03 2000315 7349071 2297104U 343 000000000 191.84- 191.84-
PAYMENT WESTERN NATIONAL
-CLAIM INFO- Claim #
041003- -WESTERN NATIONAL AU-0007349071-Y-N-P cleared
-SUMMARY-
```

```

WESTERN NA Status FILED *Balance* .00
Paid 191.84 .00 .00 #Expected 191.84 Ins .00
W/O .00 .00 .00 Personal .00 Pat .00
Pat paid to print on form .00 Other pd .00
=====
```

```
Tick# 736206 U 943      CRISTINA      HANSON      Total: 0.00
```

04/16/03 191-LARKIN PT CLARK DC SAUNDERS EDINA
 -LINE DETAIL-
 041503-041503 61001 - -SUB VISIT C 723.1 -PAIN NECK / NNN 1.00 0.00
 -SUMMARY-

				Status	DONT FILE	*Balance*	.00
Paid	.00	.00	.00	Expected	.00	Ins	.00
W/O	.00	.00	.00	Personal	.00	Pat	.00
Pat paid to print on form			.00	Other pd	.00		

Tick# 736207 U 941 CRISTINA HANSON Total: 129.92
 04/22/03 191-LARKIN PT CLARK DC SAUNDERS EDINA
 -LINE DETAIL-
 041803-041803 97110 - -THER EX 723.1 -PAIN NECK / YYY 1.00 40.00
 041803-041803 97140 -59-MANUAL THER 723.1 -PAIN NECK / YYY 2.00 88.00
 041803-041803 64000 - -SUB VISIT 723.1 -PAIN NECK / NNN 1.00 0.00
 041803-041803 97799 - -TAX 723.1 -PAIN NECK / YYY 1.00 1.92
 -RECEIPTS-

Date	Type	Claim #	Receipt #	Batch	User Data	Amount	Applied
07/11/03	2000315	7362071	2381708U	341		129.92-	129.92-
	PAYMENT	WESTERN NATIONAL			000000000		

-CLAIM INFO- Claim #
 042303- -WESTERN NATIONAL AU-0007362071-Y-N-P cleared
 -SUMMARY-

				Status	FILED	*Balance*	.00
Paid	129.92	.00	.00	#Expected	129.92	Ins	.00
W/O	.00	.00	.00	Personal	.00	Pat	.00
Pat paid to print on form			.00	Other pd	.00		

Tick# 743718 U 943 CRISTINA HANSON Total: 0.00
 04/23/03 191-LARKIN PT CLARK DC SAUNDERS EDINA
 -LINE DETAIL-
 042203-042203 61001 - -SUB VISIT C 723.1 -PAIN NECK / NNN 1.00 0.00
 -SUMMARY-

				Status	DONT FILE	*Balance*	.00
Paid	.00	.00	.00	Expected	.00	Ins	.00
W/O	.00	.00	.00	Personal	.00	Pat	.00
Pat paid to print on form			.00	Other pd	.00		

Tick# 743719 U 941 CRISTINA HANSON Total: 129.92
 04/28/03 191-LARKIN PT CLARK DC SAUNDERS EDINA
 -LINE DETAIL-
 042503-042503 97110 - -THER EX 723.1 -PAIN NECK / YYY 1.00 40.00
 042503-042503 97140 -59-MANUAL THER 723.1 -PAIN NECK / YYY 2.00 88.00
 042503-042503 64000 - -SUB VISIT 723.1 -PAIN NECK / NNN 1.00 0.00
 042503-042503 97799 - -TAX 723.1 -PAIN NECK / YYY 1.00 1.92
 -RECEIPTS-

Date	Type	Claim #	Receipt #	Batch	User Data	Amount	Applied
06/16/03	2000315	7437191	2337276U	160		129.92-	129.92-
	PAYMENT	WESTERN NATIONAL			000000000		

-CLAIM INFO- Claim #
 042803- -WESTERN NATIONAL AU-0007437191-Y-N-P cleared
 -SUMMARY-

				Status	FILED	*Balance*	.00
Paid	129.92	.00	.00	#Expected	129.92	Ins	.00
W/O	.00	.00	.00	Personal	.00	Pat	.00
Pat paid to print on form			.00	Other pd	.00		

Tick# 748232 U 941 CRISTINA HANSON Total: 129.92
 05/05/03 191-LARKIN PT CLARK DC SAUNDERS EDINA
 -LINE DETAIL-

050203-050203	97110	-	-THER EX	723.1	-PAIN NECK /	YYY	1.00	40.00
050203-050203	97140	-	-59-MANUAL THER	723.1	-PAIN NECK /	YYY	2.00	88.00
050203-050203	64000	-	-SUB VISIT	723.1	-PAIN NECK /	NNN	1.00	0.00
050203-050203	97799	-	-TAX	723.1	-PAIN NECK /	YYY	1.00	1.92

-RECEIPTS-

Date	Type	Claim #	Receipt #	Batch	User Data	Amount	Applied
06/16/03	2000315	7482321	2337275U	160		129.92-	129.92-
	PAYMENT	WESTERN NATIONAL			000000000		

-CLAIM INFO-

Claim #

050703-

-WESTERN NATIONAL AU-0007482321-Y-N-P cleared

-SUMMARY-

WESTERN NA			Status	FILED	*Balance*	
Paid	129.92	.00	.00	#Expected	129.92	Ins .00
W/O	.00	.00	.00	Personal	.00	Pat .00
Pat paid to print on form			.00	Other pd	.00	

~~~~~

|          |               |     |          |        |                |        |
|----------|---------------|-----|----------|--------|----------------|--------|
| Tick#    | 777376 U      | 941 | CRISTINA | HANSON | Total:         | 126.88 |
| 06/16/03 | 191-LARKIN PT |     | CLARK DC |        | SAUNDERS EDINA |        |

-LINE DETAIL-

|               |       |   |                 |       |              |     |      |       |
|---------------|-------|---|-----------------|-------|--------------|-----|------|-------|
| 061303-061303 | 97110 | - | -THER EX        | 723.1 | -PAIN NECK / | YYY | 1.00 | 40.00 |
| 061303-061303 | 97112 | - | -NEURO RE ED    | 723.1 | -PAIN NECK / | YYY | 1.00 | 41.00 |
| 061303-061303 | 97140 | - | -59-MANUAL THER | 723.1 | -PAIN NECK / | YYY | 1.00 | 44.00 |
| 061303-061303 | 64000 | - | -SUB VISIT      | 723.1 | -PAIN NECK / | NNN | 1.00 | 0.00  |
| 061303-061303 | 97799 | - | -TAX            | 723.1 | -PAIN NECK / | YYY | 1.00 | 1.88  |

-RECEIPTS-

| Date     | Type    | Claim #          | Receipt # | Batch | User Data | Amount  | Applied |
|----------|---------|------------------|-----------|-------|-----------|---------|---------|
| 07/11/03 | 2000315 | 7773761          | 2381709U  | 341   |           | 126.88- | 126.88- |
|          | PAYMENT | WESTERN NATIONAL |           |       | 000000000 |         |         |

-CLAIM INFO-

Claim #

061703-

-WESTERN NATIONAL AU-0007773761-Y-N-P cleared

-SUMMARY-

| WESTERN NA                |        |     | Status | FILED     | *Balance* |         |
|---------------------------|--------|-----|--------|-----------|-----------|---------|
| Paid                      | 126.88 | .00 | .00    | #Expected | 126.88    | Ins .00 |
| W/O                       | .00    | .00 | .00    | Personal  | .00       | Pat .00 |
| Pat paid to print on form |        |     | .00    | Other pd  | .00       |         |

~~~~~

Tick#	785875 U	940	CRISTINA	HANSON	Total:	1.17
06/23/03	197-SAUNDERS FIN		CLARK DC		SAUNDERS EDINA	

-LINE DETAIL-

061303-061303	97799	-	-COPY OF REC	723.1	-PAIN NECK /	YYY	1.00	0.75
061303-061303	SALES TA-	-	-MN SALES TA	723.1	-PAIN NECK /	YYY	1.00	0.05
061303-061303	POSTAGE	-	-POSTAGE	723.1	-PAIN NECK /	YYY	1.00	0.37

-RECEIPTS-

Date	Type	Claim #	Receipt #	Batch	User Data	Amount	Applied
07/11/03	2000315	7858751	2381710U	341		1.17-	1.17-
	PAYMENT	WESTERN NATIONAL			000000000		

-CLAIM INFO-

Claim #

062403-

-WESTERN NATIONAL AU-0007858751-Y-N-P cleared

-SUMMARY-

WESTERN NA			Status	FILED	*Balance*	
Paid	1.17	.00	.00	#Expected	1.17	Ins .00
W/O	.00	.00	.00	Personal	.00	Pat .00
Pat paid to print on form			.00	Other pd	.00	

~~~~~

|          |               |     |          |        |                |       |
|----------|---------------|-----|----------|--------|----------------|-------|
| Tick#    | 801609 U      | 941 | CRISTINA | HANSON | Total:         | 25.00 |
| 07/21/03 | 191-LARKIN PT |     | CLARK DC |        | SAUNDERS EDINA |       |

-LINE DETAIL-

|               |       |   |              |       |              |     |      |       |
|---------------|-------|---|--------------|-------|--------------|-----|------|-------|
| 071803-071803 | 62001 | - | -SUB VISIT N | 723.1 | -PAIN NECK / | NNN | 1.00 | 25.00 |
|---------------|-------|---|--------------|-------|--------------|-----|------|-------|

-RECEIPTS-

| Date | Type | Claim # | Receipt # | Batch | User Data | Amount | Applied |
|------|------|---------|-----------|-------|-----------|--------|---------|
|------|------|---------|-----------|-------|-----------|--------|---------|

09/03/03 2000315 8016091 2468583U 430 0.00 0.00  
 DENIED WESTERN NATIONAL 000000000  
 12/15/03 1000002 2632370U 132 NEH200 25.00- 25.00-  
 #2355 PERSONAL CHECK 110000731

-CLAIM INFO- Claim #  
 072203- -WESTERN NATIONAL AU-0008016091-Y-N-P rejected

-SUMMARY-

| WESTERN NA                |     |     |     | Status    | FILED | *Balance* |     |
|---------------------------|-----|-----|-----|-----------|-------|-----------|-----|
| Paid                      | .00 | .00 | .00 | #Expected | 25.00 | Ins       | .00 |
| W/O                       | .00 | .00 | .00 | Personal  | 25.00 | Pat       | .00 |
| Pat paid to print on form |     |     | .00 | Other pd  | .00   |           |     |

~~~~~  
 Tick# 803818 U 945 CRISTINA HANSON Total: 126.88
 08/01/03 191-LARKIN PT CLARK DC SAUNDERS EDINA

-LINE DETAIL-

072103-072103	97110	-	-THER EX	723.1	-PAIN NECK /	YYY	1.00	40.00
072103-072103	97112	-	-NEURO RE ED	723.1	-PAIN NECK /	YYY	1.00	41.00
072103-072103	97140	-59-	MANUAL THER	723.1	-PAIN NECK /	YYY	1.00	44.00
072103-072103	64000	-	-SUB VISIT	723.1	-PAIN NECK /	NNN	1.00	0.00
072103-072103	97799	-	-TAX	723.1	-PAIN NECK /	YYY	1.00	1.88

-RECEIPTS-

Date	Type	Claim #	Receipt #	Batch	User Data	Amount	Applied
08/28/03	2000315	8038181	2460162U	343		126.88-	126.88-
	PAYMENT	WESTERN NATIONAL			000000000		

-CLAIM INFO- Claim #
 080403- -WESTERN NATIONAL AU-0008038181-Y-N-P cleared

-SUMMARY-

WESTERN NA				Status	FILED	*Balance*	
Paid	126.88	.00	.00	#Expected	126.88	Ins	.00
W/O	.00	.00	.00	Personal	.00	Pat	.00
Pat paid to print on form			.00	Other pd	.00		

~~~~~  
 191 WILLIAM B LARKIN PT 0.00  
 197 SAUNDERS FINANC 0.00  
 ~~~~~

** End of Detail **

ROBERT J. MILAVETZ
JONATHAN D. GALLOP **
ALAN S. MILAVETZ
STEVEN B. LEVINE
BARBARA N. NEVIN
GREGORY S. MALUSH
JOSEPH RYMANOWSKI, JR. **
ERIC R. LEE
CHAD WM. SCHULZE
ADAM C. WADD

**OF COUNSEL

MILAVETZ, GALLOP & MILAVETZ, P.A.

ATTORNEYS AT LAW

1915 - 57th AVENUE NORTH
BROOKLYN CENTER, MINNESOTA 55430

TOLL FREE: 1-800-365-6666
FAX: (763) 560-3908

lawpage.com

LEGAL ASSISTANTS:

DALE B. ZILLHART
AMY WESTBY
LAURA M. CRAWFORD
JULIE L. BUTTRAM
JULIAN SANTANA*
DARCI -JO KING
KRISTINA M. ARTHUR
DAWN M. SKOOG

*SE HABLA ESPANOL

INVESTIGATORS:

PATRICK O. SHAEFFER

Gregory S. Malush
(763) 560-0002

April 27, 2004

Ms. Cristina R. Hanson
18265 263rd Ave.
Big Lake, MN 55309

Re: Our File No.: 30577
Date/Injury: 1/31/02

Dear Ms. Hanson:

As you are aware, back in July, 2003, I informed you that you must talk with Craig Andresen, your bankruptcy attorney, and amend your petition for bankruptcy, because you must list your accident of 1/31/02 as one of the assets of your bankruptcy estate.

This accident, upon my review of the petition, is not listed.

This really causes a problem for me because I do not have a clean discharge from the bankruptcy trustee, or a letter from the bankruptcy trustee indicating that they do want part of the no-fault arbitration and/or anything from your personal injury case.

Because you have failed to either talk with Mr. Andresen or for some reason this amendment has not occurred, I cannot release any of the funds from the no-fault arbitration. Since this accident is not listed as part of the bankruptcy estate, the bankruptcy trustee does not know about it, and therefore, may want some of it.

This places me in a very strange situation. There are many ramifications if you fail to tell the trustee about auto accidents. The claim that you have against the other driver is part of the bankruptcy estate. The trustee has to waive that claim or can seek part of that money back as part of the bankruptcy.

When you do not tell the trustee about the accident, I am placed in a position where I believe that I cannot release any of the funds to you or your physicians because of this situation.

You should also realize that when and if we settle the bodily injury case, I will again be placed in that same situation. Even though you may agree to the settlement and the settlement funds may be put into my trust account, without an okay from the bankruptcy trustee, who may have a right to part of the proceeds from the settlement if she chooses to take it, I cannot release the funds.

Exhibit C-1

Therefore, again I strongly suggest that you contact Mr. Andresen at 952-831-1995, and discuss this with him and amend the petition.

Very truly yours,

MILAVETZ, GALLOP & MILAVETZ, P.A.

Gregory S. Malush

GSM:cam
/hanson.a26

LAPP, LIBRA, THOMSON, STOEGBNER & PUSCH
CHARTERED
ATTORNEYS AT LAW

WILLIAM S. LAPP
DAVID A. LIBRA*
RICHARD T. THOMSON
JOHN R. STOEGBNER*
GREGORY D. PUSCH
JULIA A. CHRISTIANS
DAVID A. HARBECK
RALPH V. MITCHELL
DAVID C. WEINSTEIN†
BRADLEY J. HINTZE ‡

WILLIAM S. GLEW, OF COUNSEL

ONE FINANCIAL PLAZA
SUITE 2500
120 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402

TELEPHONE (612) 338-5815
FACSIMILE (612) 338-6651

*REAL PROPERTY LAW SPECIALIST
CERTIFIED BY THE MINNESOTA STATE BAR ASSOCIATION
†ALSO LICENSED IN CONNECTICUT AND NEW YORK
‡ALSO ADMITTED IN WISCONSIN

WRITER'S DIRECT DIAL: (612) 343-4960
E-MAIL: jchristians@lappibra.com

MAY - 5 2004

May 4, 2004

Gregory Malush
Milavetz Gallop & Milavetz
1915 57th Street North
Brooklyn Center, MN 55430

VIA U.S. Mail and
VIA Facsimile (763) 560-3908

RE: Cristina Renee Hanson, debtor.
BKY No. 03-40673

Dear Mr. Malush:

Thank you for your recent telephone call alerting me to the fact that you are representing the above referenced debtor in a personal injury action arising from a January 31, 2002 automobile accident. Since the accident preceded the debtor's bankruptcy, her claims in the matter are property of the bankruptcy estate. The schedules show that the debtor failed to disclose the claim as an asset and failed to claim any exemption in connection with the claim. Accordingly, all proceeds of the claim must be turned over to the bankruptcy estate.

In the event the debtor intends to assert any exemption rights in the asset, she and her bankruptcy counsel will need to take the steps necessary to file amended schedules. In the absence of full disclosure in the bankruptcy of the asset, and an asserted and allowed exemption claim, all rights in the claim and any proceeds belong to the estate. The debtor lacks the authority to authorize any disposition of the claim without the express consent of the trustee. Further, your retention as attorney to represent the interests of the estate in collecting proceeds should be applied for and approved by the Bankruptcy Court. Kindly provide me with a copies of the Complaint and Answer and your retainer agreement with the debtor.

Thank you for your cooperation with regard to this matter.

Sincerely,


Julia A. Christians

JAC/slf

cc: Cristina Hanson
Craig Andresen

*Client has appt w/ a/wa
next week. ces*

Exhibit D

MILAVETZ, GALLOP & MILAVETZ, P.A.

ROBERT J. MILAVETZ
JONATHAN D. GALLOP **
ALAN S. MILAVETZ
STEVEN B. LEVINE
BARBARA N. NEVIN
GREGORY S. MALUSH
JOSEPH RYMANOWSKI, JR. **
ERIC R. LEE
CHAD WM. SCHULZE
ADAM C. WADD

**OF COUNSEL

ATTORNEYS AT LAW

1915 - 57th AVENUE NORTH
BROOKLYN CENTER, MINNESOTA 55430

TOLL FREE: 1-800-365-6666
FAX: (763) 560-3908

lawpage.com

LEGAL ASSISTANTS:

DALE B. ZILLHART
AMY WESTBY
LAURA M. CRAWFORD
JULIE L. BUTTRAM
JULIAN SANTANA*
DARCI JO KING
KRISTINA M. ARTHUR
DAWN M. SKOOG

*SE HABLA ESPANOL

INVESTIGATORS:

PATRICK O. SHAEFFER

Gregory S. Malush
(763) 560-0002

May 11, 2004

Mr. Craig Andresen
2001 Killebrew Drive
Suite 300
Bloomington, MN 55425

MAY 14 2004

RE: Our Client: Cristina Hanson
Our File No.: 30577
Case No.: 03-40673-NCD

Dear Mr. Andresen:

Enclosed, please find a copy of the no-fault arbitration award and the first few pages of our no-fault arbitration book.

As you can see Ms. Hanson did not receive full compensation for her bills.

Please note that almost all of these bills, except for a few hundred dollars from the chiropractor were incurred after she filed her bankruptcy petition.

Please note that pursuant to our retainer we are entitled to reimbursement of our costs on the file, plus one-third of the award.

Please let me know how you want me to proceed at this point.

Very truly yours,

MILAVETZ, GALLOP & MILAVETZ, P.A.

Gregory S. Malush

GSM:kma

Enclosure: No-fault arbitration award, first few pages of the arbitration book

c: Cristina Hanson

/hanson.511

Exhibit E-1

1615 offer
USAH

Copy sent to Trustee 5/18/04.
RM



UNITED SERVICES AUTOMOBILE ASSOCIATION
9800 Fredericksburg Road, San Antonio, TX 78288

GREGORY S. MALUSH
MILAVETZ, GALLOP, & MILAVETZ
1915 - 57TH AVENUE NORTH
BROOKLYN CENTER MN 55430-0000

May 12, 2004

Policyholder: Charlotte M. Granite
Reference Number: 14828250-7103-5-8523
Date Of Loss: January 31, 2002
Loss Location: St Cloud, Minnesota
Your Client: Cristina Hanson

Dear Mr. Malush:

This letter will confirm my verbal offer of \$10,000 in full and final settlement of all claims. We believe that this amount represents the full value of your client's claim. Please discuss this offer with your client at your earliest convenience.

I look forward to concluding this claim with you in the next 30 days.

Sincerely,

A handwritten signature in cursive script, reading "Angela R. Becker".

Angela R. Becker
Casualty Claims Adjuster
Injury Unit
Phone: 800/531/8222 ext 32696
Fax Phone: 1-800-547-3763

E-2

**CRAIG W. ANDRESEN
ATTORNEY AT LAW**

**2001 KILLEBREW DR, SUITE 330
BLOOMINGTON, MINNESOTA 55425**

**TELEPHONE (952) 831-1995
FAX (952) 854-4114**

WEBSITE: www.cwalaw.com

Member, Bankruptcy Section
Minnesota State Bar Association

Admitted in 1987
Licensed in State & Federal Courts

May 18, 2004

Julia Christians, Trustee
120 South 6th St.
Suite 2500
Minneapolis, MN 55402

**Re: Cristina R. Hanson
Bky No. 03-40673**

Dear Ms. Christians:

Enclosed please find documents relating to Ms. Hanson's injury claim. I hope that this is satisfactory to you. Please call my office if you require anything further or have any questions.

Very truly yours,

Craig W. Andresen/keu

Craig W. Andresen
Attorney at Law

CWA:keu

Exhibit F

**AMERICAN ARBITRATION ASSOCIATION
MINNESOTA NO-FAULT TRIBUNAL**

In the Matter of the Arbitration between

Re: 56 600 03402 03

Cristina R. Hanson

and

Western National Insurance Group

Claim File Number: 0300258465

Accident Date: January 31, 2002

Pol#: 300046312 Pol Hld: Cristina R. Hanson

AWARD OF ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, designated in accordance with MSA 65B.525, having been duly sworn and having heard the proofs and allegations of the parties, AWARD as follows:

Medical Expenses:

50 th & France Chiropractic	\$ 2,500.00
Pain Assessment & Rehab. Center	\$ 994.00
Analgesic Health Care	\$ 729.93
Dr. Broadwell	\$ 1,155.00
Drugs	\$ 177.39
Mileage:	\$ 443.04
Interest at 15%:	
From various dates to 2/6/04	\$ 646.21

TOTAL: \$ 6,645.57

The balance of the claim is hereby denied.

Arbitrator's compensation in the amount of \$300.00 shall be borne equally by the parties (\$150.00 each) and paid as directed by the American Arbitration Association.

Administrative fees of the American Arbitration Association shall be borne as incurred.

This award is in full settlement of all claims submitted to this arbitration.

DATE: 2/25/04

SIGNED: Wm Majerus
William N. Majerus, Arbitrator

Exhibit G-1

Copy to Trustee
5/18/04. KH

AMERICAN ARBITRATION ASSOCIATION
PILLSBURY CENTER
200 S. 6TH ST. STE. 700
MINNEAPOLIS, MN 55402

Case No. 56 600 03402 03

IN RE THE MATTER OF
The Arbitration Between:

Cristina Hanson,

Claimant,

and

Western National Insurance Group,

Respondent.

Date/Time of Hearing:

Thursday, February 6, 2004
10:30 a.m.

Place:

American Arbitration Association
700 Pillsbury Center
200 South Sixth Street
Minneapolis, MN 55402

Arbitrator:

William N. Majerus

Attorneys:

Gregory S. Malush
Milavetz, Gallop & Milavetz, P.A.
1915 57th Avenue North
Brooklyn Center, MN 55430
(763) 560-0002

Attorneys for Claimant

B. Jon Lilleberg
Johnson & Condon, P.A.
7401 Metro Boulevard
Suite 600
Minneapolis, MN 55439

Attorneys for Respondent

AMERICAN ARBITRATION ASSOCIATION
PILLSBURY CENTER
200 S. 6TH ST. STE. 700
MINNEAPOLIS, MN 55402

Case No. 56 600 03402 03

IN RE THE MATTER OF
The Arbitration Between:

Cristina Hanson,

Claimant,

and

Western National Insurance Group,

Respondent.

TABLE OF CONTENTS

	Page
Brief Statement of the Case	1
Facts	2
No Fault Law	5
Conclusion	

EXHIBITS

Claimant's Exhibit A -	Traffic Accident Report Photographs
Claimant's Exhibit B -	Medical Records--Kanebec Hospital
Claimant's Exhibit C -	Medical Records--St. Cloud Hospital
Claimant's Exhibit D -	Medical Records & Itemized Statement--Pain Assessment & Rehab

Claimant's Exhibit E -	Narrative Reports--Dr. A.V. Anderson--December 2002 & May 2003
Claimant's Exhibit F -	Medical Records & Itemized Statement--50th & France Chiropractic
Claimant's Exhibit G -	Narrative Report--Dr. Christopher D. Jo--January 27, 2004
Claimant's Exhibit H -	Medical Records--Saunders Physical Therapy
Claimant's Exhibit I -	Medical Records & Itemized Statement--Dr. Susan Broadwell
Claimant's Exhibit J -	Itemized Statement--Analgesic Health Care
Claimant's Exhibit K -	Narrative Report--Dr. Trainer--Brookwest Chiropractic Health
Claimant's Exhibit L -	Mileage Logs Prescription Receipts
Claimant's Exhibit M-	Costs & Interest

Great Western Casualty Co. v. Northland Ins. Co., State Farm v. Zitloff and
Scheibel v. Il. Farmers

AMERICAN ARBITRATION ASSOCIATION
PILLSBURY CENTER
200 S. 6TH ST. STE. 700
MINNEAPOLIS, MN 55402

Case No. 56 600 03402 03

IN RE THE MATTER OF
The Arbitration Between:

Cristina Hanson,

Claimant,

and

ARBITRATION STATEMENT

Western National Insurance Group,

Respondent.

BRIEF STATEMENT OF THE CASE

Claimant, Cristina Hanson, has been denied a claim for no-fault insurance benefits due her pursuant to a policy of insurance issued to her by Respondent Western National Insurance Group. A brief outline of the payment demanded is set forth below:

MEDICAL EXPENSE:

50th & France Chiropractic	\$9,268.00
Mileage= 43 trips x 22 miles x \$0.31	\$ 88.66
**Moved (08/01/03 to Big Lake)	
Mileage= 23 trips x 104 miles x \$0.31	\$ 741.52
Pain Assessment & Rehab Center	\$ 994.00
Mileage= 3 trips x 23 miles x \$0.31=	\$ 21.39
**Moved (08/01/03 to Big Lake)	
5 trips x 107miles x \$0.31=	\$ 165.85
Saunders Physical Therapy	\$ 25.00
Mileage=6 trips x 30 miles x \$0.31=	\$ 55.80
Analgesic Health Care (TENS Unit)	\$ 729.93
Dr. Susan Broadwell (Psychological Therapy)	\$1,155.00

Prescriptions	\$ 177.39
Interest=	\$ 26.87
TOTAL MEDICAL=	\$13,449.41

Claimant is also entitled to payment for interest on all overdue bills. See Minnesota Statute 65B.54, subd. 2, (1986) (overdue payments shall bear simple interest at the rate of 15% per annum).

In light of Cristina Hanson's ongoing pain and evident need for continuing medical treatment, Claimant requests that respondent bear the costs associated with this hearing.

FACTS

I. ACCIDENT SUMMARY.

On January 31, 2002, Ms. Hanson was driving south on 4th Ave when a vehicle approached the stop sign, failed to stop, and went right in front of Ms. Hanson, causing the collision. Enclosed are photographs depicting the damage to her car, as well as some pictures taken at the scene by the police depicting some of the damage to Mr. Dennis Granit's vehicle marked as Exhibit A.

Just prior to the accident, she pursued becoming a Certified Nursing Assistant at Elm Home-Princeton in Milaca. We enclose a copy of the CNA/NAR class agreement. Please note that Ms. Hanson had already paid the \$250.00 for the certification. She completed the course and took the examinations, they interviewed her, and she was going to start a job there. Ultimately, Ms. Hanson was never able to start her position as a CNA at the Elm Home. Unfortunately, at that time she was in jeopardy of losing her house, as she had no income with which to make payments. She thus moved to Crystal to be an apartment caretaker, so that she could properly shelter her family with the discounted rent.

II. MEDICAL SUMMARY.

Following the accident later that day, Ms. Hanson went to the St. Cloud Hospital, as she was experiencing pain and discomfort in her neck and back. Particularly, she was experiencing upper back pain and neck pain, which radiated to the top of the shoulder, and having headaches.

A few weeks later she went back to Kanabec Hospital and was seen in their emergency room, because she was having more trouble with her symptoms. They eventually sent her to the Allina Mora Medical Center, where she was referred back to Kanabec Hospital for physical therapy at Rehabilitation

Services. We enclose records from Kanabec Hospital marked as Exhibit B.

Around April of 2002, Ms. Hanson's financial situation was becoming far worse. A friend of Ms. Hanson's brother, Casey Hanson, told her he would be able to get her a position as a caretaker at an apartment complex where he worked. Such a position included a \$680.00 rent credit for a one bedroom apartment. She, however, needed a two bedroom apartment, along with a garage for storage space. Therefore she paid extra for another bedroom and half a garage. She began the work as the apartment caretaker, but the vacuuming and the mopping aggravated her neck and particularly her right shoulder. She continued to have trouble so she began treating with 50th and France Chiropractic in July of 2002. We enclose copies of those records and their itemized bill marked as Exhibit F.

She was then referred to Dr. A.V. Anderson, of the Pain Assessment & Rehabilitation Center in Edina. We enclose copies of records and bills from Pain Assessment & Rehabilitation marked as Exhibit D.

In addition to the physical pain, she was also experiencing driving anxiety and depression. Particularly, she would experience anxiety attacks when entering intersections. She began seeing Dr. Susan Broadwell to cope with her post-traumatic stress from the accident. We enclose copies of those records marked as Exhibit I. Because her no-fault carrier denied payment for Ms. Hanson's psychiatric treatment, she could not go there any longer.

Because of the swelling and pain she experiences with the right shoulder, she has been on a Medidose pack, and treating with Vicodin and other medications to help with the swelling and pain. She is also on medications for depression and anxiety, Gavatriil and Vioxx.

When the pain Ms. Hanson experiences is at its worse, it restricts her range of motion, because the muscles on the top of her shoulder spasm so intensely. These spasms can be so intense that she is even sometimes unable wash or brush her hair.

Ms. Hanson was also issued a TENS unit through the Pain Assessment & Rehabilitation Center's chiropractor. We enclose records and an itemized statement from Analgesic Health Care marked as Exhibit J.

III. WAGE LOSS .

Her employment ended shortly after this accident; she was no longer able to continue with school and she was not receiving any student loans. She lost her house, so, as indicated, she moved to BT&A Construction, at their Crystal Village complex. She also began working for Opal In-Home Services on August 27, 2002, using her CNA certificate. When she started there she was working Sundays from 9:00

a.m. until Mondays 9:00 a.m., a 24 hour shift. She also received \$0.50 extra for the hours worked on Sunday, as long as she was awake during those hours. She also worked from Wednesday from 10:00 p.m. till Thursday at 9:30 a.m., and that gave her 35 hours per week.

She was then moved to a highly undesirable shift, which was Friday at 5:00 until Monday at 9:00 a.m., every other week. Her employer also wanted her to work the weekends she was not normally scheduled for. She declined. She was working about 64 hours per pay period at that time.

Ms. Hanson is at present working from Wednesday from 4:00 p.m. until Thursday at 9:30 a.m. She works again from Thursday beginning at 4:00 p.m. until Friday at 9:30 a.m. She gets about 50 hours of "wake pay" at \$10.09/hour, and 20 hours of sleep pay at \$6.06/hour. She is getting about 70 hours per pay period and therefore qualifies again for health insurance. However, Ms. Hanson does not get health insurance from her place of employment because it is too costly.

You should be aware that the group home that she works at is located in Rosemont and it is about a 45 minute trip each way, more depending on circumstances due to weather and construction.

The caretaker job is becoming too physically difficult for Ms. Hanson. She is responsible for outdoor work, as well as indoor duties. Among these duties, Ms. Hanson must lift, perform lawn care, vacuum, and mop. She has decided to end her job as the apartment caretaker, as it aggravates her neck and shoulder symptoms far too much. This means, however, that she and her family must find a different living arrangement to make ends meet.

She then applied for a job at Northridge Nursing Home, and she had made her way through both the application and interview processes. All set to begin working, she had to under go a chiropractic examination. Her work hours were to be from 6:30 a.m. to 2:30 p.m., approximately two to three miles from her house. She would have been paid \$11.20 per hour, 80 hours every pay period. However, the chiropractor whose report we attached, indicates that she cannot meet the physical requirements of the job, because cannot do the 70 pound lift. She was therefore unable to start employment with North Ridge as a Certified Nursing Assistant.

IV. ARGUMENT

Western National Insurance Company had Ms. Hanson see Dr. Reut, approximately ten (10) months after this automobile accident. Dr. Reut had an opportunity to review most of her medical records. He noted that she was in a significant automobile accident. She had treated with the St. Cloud Emergency Room Department that day. That the cervical spine X-rays noted slight straightening of the

normal cervical Lordotic curve which was most likely due to spasm. Records also note that she was having significant pain in her neck and upper back at that time. Dr. Reut also notes that she did obtain follow-up treatment with the Allina Mora Medical Center. The doctor there also noted she was having muscle spasms and that was causing her pain and tightening in her upper back and neck, and she was supposed to continue on the Naproxen. They also took her off of the Flexeril because it was bothering her and put her on Robaxin.

Dr. Reut's diagnostic impression was he found some fibrotic nodules in the trapezius and rhomboid muscle group on the right without spasm. He thought the symptoms suggested a possible nerve root irritation contributing to the infraspinatus muscle group weakness on the left that the MRI was normal. Dr. Reut is also of the opinion that if she can get back into a regular sleep cycle, see a physical therapist, then maybe the neck pain, upper back pain, shoulder pain, and associated headaches which are consistent with her injuries, would subside. He also thought that the physical therapy at the Kanabec Hospital was a good start but it was not aggressive enough, particularly for any kind of strengthening. Dr. Reut does find that there is an injury, and he believes that his treatment recommendations along with the sleep medications and the appropriate physical therapy would be her best avenue.

Ms. Hanson did decide to join the Lifetime Fitness in Champlin and began working out to strengthen her neck and upper back. She continues to treat with Dr. A.V. Anderson, even through December of 2003. Dr. Anderson in his notes and his reports gives us a different opinion than Dr. Reut on her treatment plan and what she should be doing. In actuality, they do not disagree that she has significant injuries from this accident, it is just that Dr. Anderson believes that she should continue with her exercise at the Lifetime Fitness, and that Ms. Hanson should continue with her physical therapy and to continue treating with the chiropractor.

Dr. Jo with 50th & France Chiropractic, details in his report of January 27, 2004, that he also finds the same problems that Dr. Reut and Dr. Anderson found and he believes they also stem from the motor vehicle accident.

He believes that with further chiropractic treatment and care that she can get better. But both Dr. Anderson and Dr. Jo believe that she does have a permanent injury due to the accident. Dr. Jo goes on to detail that Ms. Hanson will need future care because of her condition and the possibility of exacerbations and the occurrence of flare-ups. Her current treatment schedule is approximately once every ten (10) days to two weeks to gradually reduce to once a month. She is responding well to this treatment plan and this allows the problems she has to be addressed and treated before she is unable to perform her daily activities.

NO-FAULT LAW

I. MEDICAL EXPENSES.

Claimant is entitled to reimbursement for all reasonable expenses for necessary medical and chiropractic services. Minnesota Statutes §65B.44, subd. 2 (1986).

The standard to determine whether medical expense benefits should be paid is not whether the particular treatment is curative. There is no authority for denying payment of medical expenses solely on the basis that the treatment was intended to relieve pain rather than cure a condition. Surely, no insurer would argue that anesthesia during a surgery and pain pills following the surgery are not payable because they are "palliative" and not "curative".

At least two Minnesota Court of Appeals decisions indicate that if the injured person benefits in some way from the treatment, it meets the reasonable and necessary standard. In Ruppert v. Milwaukee Mutual Ins., 392 N.W.2d 550 (Minn. App. 1986), the Court of Appeals found that medical benefits were payable because the trial court did not make an explicit finding that Ruppert was cured requiring no further treatment. Id., 392 N.W.2d at 556. In Wolf v. State Farm Ins. Co., 450 N.W.2d 359 (Minn.App. 1990), the injured insured "testified [that] the chiropractic treatments made her feel better." Wolf, 450 N.W.2d at 360. This testimony was sufficient to meet the reasonable and necessary standard. Id. Thus, in two separate cases the Court of Appeals has indicated that medical benefits must be paid until the Claimant is found to be cured.

This arbitration also brings up the fact that pre-accident treatment existed for the Claimant. The Supreme Court of Minnesota in Great Western Casualty Co. v. Northland Ins. Co., 548 N.W.2d 279 (Minn.App. 1996) held that apportioning of PIP is no longer the Rule, but is payable by the insurer when the insured incurs a compensable loss. In other words, the no fault insurer takes the person as they find them when the accident occurs.

This holding by the court in Western, Supra, has been applied in the unpublished opinion in State Farm v. Zitloff, 1998 WL 481888 (Minn.App.) and Scheibel v. Il. Farmers, 1999 WL 391910 (Minn.App.). Attached hereto as Claimant's Exhibit _ is a copy of Great Western Casualty Co. v. Northland Ins. Co., State Farm v. Zitloff and Scheibel v. Il. Farmers.

II. WAGE LOSS

Disability and income loss benefits shall provide compensation for eighty-five (85%) percent of the injured person's loss of present and future gross income from inability to work proximately caused by the non-fatal injury subject to a maximum of \$250.00 per week. Minn. Stat. § 65B.44 subd. 3 (1990).

Partially disabled people who are unable to work fulltime or return to the same type of such are "unable to work", and thus eligible for income loss benefits. Prax v. State Farm Mutual Automobile Ins. Co., 322 N.W. 2d (Minn. 1982). In computing income loss benefits, wages earned through partial employment reduce, but do not eliminate, the weekly income loss. Substitute earnings are not subtracted dollar for dollar from income loss benefits but are instead subtracted from the weekly wages at the time of the injury. Id. See also, Chacos v. State Farm Mutual Automobile Ins. Co., 368 N.W. 2d 343 (Minn. App. 1985).

III. COSTS

Claimant's actual costs of pursuing this arbitration should be awarded. By their very nature, no-fault benefits are reimbursement for actual losses already incurred. Where Claimant ultimately prevails in proving entitlement to those benefits, equity demands that the arbitrator assess the actual cost of prevailing against the insurer. Failure to do so results in less than the reimbursement mandated by the No-Fault Act.

Therefore, under the authority granted to the arbitrator by Rule 32 of the Rules of Procedure for No-Fault Arbitration, Claimant respectfully requests that the arbitrator explicitly award the cost of the arbitration filing fee in the award against Respondent.

We ask that the Arbitrator explicitly confirm that the Arbitrator's fees should be borne by the insurer.

LEGAL ARGUMENT

1. **Causation.** The No-Fault Act provides for payment of all economic loss "suffered through injury arising out of the maintenance or use of a motor vehicle". M.S. § 65B.44, subd. 1 (1990).

The "arising out of" language is simply an expression of causation and has been clarified by the courts. In Ruppert v. Milwaukee Mutual Ins. Co., 392 N.W.2d 550 (Minn. App. 1986), review denied October 22, 1986, the court set forth the standard:

The test, of course, is not whether the trauma resulting from another's negligence might, only in the realm of possibility have been a factor in producing a certain result, but whether it was a factor or at least a probable factor in producing the claimed result.

392 N.W.2d at 556, citing Kenney v. Chicago Great Western Railway, 245 Minn. 284, 290, 71

N.W.2d 669, 673 (1955), quoting Berg v. Ullveig, 244 Minn. 390, 398, 70 N.W.2d 133, 138 (1955). In Ruppert, the Court of Appeals reversed the trial court by holding that the injured plaintiff had met her burden by showing that the accident in question was at least a probable factor in bringing about her injuries. Id. at 558.

Claimant needs to show only that the accident in question was at least a "probable factor" in bringing about the injuries in order to obtain basic economic loss benefits. Because the claimant has proven that the accident was at the very least a probable factor, respondent must pay the outstanding benefits.

2. Pre-existing Conditions. As in tort law, the existence of a prior injury or pre-existing condition does not relieve the No-Fault carrier of its obligation to pay benefits. The Ruppert Court discussed this issue and concluded that the no-fault insurer is responsible for payment of no-fault benefits despite a prior injury or pre-existing condition if the accident at issue was "a probable factor" in producing the resulting injuries. 392 N.W.2d at 556.

Minnesota law regarding causation is codified in the jury instruction defining direct cause. "A direct cause is a cause which had a substantial part in bringing about the injury". JIG III, 140 (West 1986). Thus, under Minnesota law, even if the automobile accident is only a partial cause of the treatment, the no-fault carrier is responsible. All that is required is that the automobile accident had a substantial part in bringing about the treatment.

In Great West Casualty Company v. Northland Insurance Company, 548 N.W.2d 279 (Minn. 1996), the Minnesota Supreme Court stated:

That the entire responsibility for Neuleib's disability caused by the accident occurring while Great West was on the policy should fall on Great West is neither unfair nor unjust. Great West accepted Neuleib as an insured with whatever physical condition he may have had at the time, and it is not for Great West to...refuse payment of benefits for that portion of his disability caused by a previous injury ...(emphasis added).

The Court also effectively overruled Rodgers v. Progressive Specialty Insurance, 499 N.W.2d 61 (Minn. App. 1993) when it stated:

We recognize that by this ruling we cast a long shadow over the court of appeal decision in Rodgers ... There, the court of appeals held that under the no-fault act, an insurer was obligated to pay only for the expenses related to the insured's current accident, even though fifty percent of the current medical treatment was attributable to an earlier accident when the same insurer provided coverage. Id. at 62-65. In Rodgers, the court of appeals relied upon the use of the singular "accident" in the definition of "loss" Id. at 63. We disagree with the court's apportioning of PIP benefits, and we consider them payable by the insurer when the insured

incurs compensable loss. Great West Casualty Company, 548 N.W.2d at 281 (n.4) .

Recently, the Supreme Court again reiterated its position in Great West when it stated in Pususta v State Farm Insurance Companies, 632 N.W.2d 549 (Minn.2001) :

There is no indication in the No-Fault Act that the legislature intended to modify the well settled concept from tort law that damages are those attributable to a particular injury and the aggravation of a pre-existing physical condition. Requiring compensation for any aggravation of a pre-existing condition is what is meant by accepting the insured with any conditions she had at the time. Id. at 556

3. Burden of Proof. The insurer has the burden of proving that the claimant is not entitled to benefits. This is a reversal of the usual burden of proof, and it is based in the unique policies of the Minnesota No-Fault Act.

In Wolf v. State Farm Insurance Company, 450 N.W.2d 359 (Minn. App. 1990) , the Court of Appeals laid out the burden of proof:

We do not agree with State Farm's position that the initial burden of proof was on Wolf to establish her entitlement to benefits by presenting evidence on the issues of causation and necessity. An insured has a right to basic economic loss benefits under the Minnesota No-Fault Act. M.S. §65B.46, subd. 1. Once an insurer receives reasonable proof of the fact and amount of loss realized, it has a duty to respond to an insured's claim in a timely manner. M.S. §65B.54. Assuming State Farm received reasonable proof of Wolf's losses, the burden was on it to establish Wolf was not entitled to benefits.

450 N.W.2d at 362 (emphasis in original) .

4. Benefits. M.S. §65B.44, subd. 1 states:

Basic economic loss benefits shall provide reimbursement for all loss suffered through injury arising out of the maintenance or use of a motor vehicle. ..consisting of:

- (a) \$20,000 for medical expense loss arising out of injury to anyone person; and
- (b) a total of \$20,000 for income loss, replacement services loss, funeral expense loss, survivor's economic loss and survivor's replacement services loss arising out of injury to anyone person.

5. Medical Expense Benefits. Subdivision 2 discusses medical expense benefits:

Medical expense benefits shall reimburse all reasonable expenses of necessary medical, surgical, x-ray, optical, dental, chiropractic and rehabilitative services and all other reasonable transportation expenses incurred in traveling to receive covered medical benefits, hospital, extended care and nursing services....

M.S. §65B.44, subd. 2 (1990) .

The standard to determine whether medical expense benefits should be paid is not whether the

particular treatment is curative. There is no authority for denying payment of medical expenses solely on the basis that the treatment was intended to relieve pain rather than cure a condition. Surely, no insurer

would argue that anesthesia during a surgery and pain pills following the surgery are not payable because they are "palliative" and not "curative".

The No-Fault act explicitly requires payment of reasonable charges for necessary treatment. At least two Minnesota Court of Appeals decisions indicate that if the injured person benefits in some way from the treatment, it meets the reasonable and necessary standard. In Ruppert v. Milwaukee Mutual Insurance, 392 N.W.2d 550 (Minn. App. 1986), the Court of Appeals found that medical benefits were payable because the trial court did not make an explicit finding that Ruppert was cured requiring no further treatment. Id. 392 N.W.2d 556. In Wolf v. State Farm, 450 N.W.2d 359 (Minn. App. 1990), the court held that, because an insured has a right to basic economic loss benefits under the No-Fault Act, the burden was on the insurer to establish that the insured was not entitled to benefits once the insurer received reasonable proof of the fact and amount of loss realized. Id. at 362. In Wolf, the injured insured had "testified [that] the chiropractic treatments made her feel better." Id. at 360. This testimony was sufficient to meet the reasonable and necessary standard. Id. Thus, in two separate cases, the Court of Appeals has indicated that medical benefits must be paid until the claimant is found to be cured.

6. Mileage. Mileage to and from treatments and parking costs must be reimbursed as "reasonable transportation costs." M.S. §65B.44, subd. 2 (1990). These are actual costs to the claimant and should be paid in full at the 30 cents per mile I.R.S. rate.

7. No Set-Off for Collateral Payments. There is no set off for payments made by other insurers. "Basic economic loss benefits shall be primary with respect to benefits, except for those paid or payable under a workers' compensation law. ..." Minn. Stat. §65B.61, Subd. 1 (1988).

No-fault carriers are granted no right to coordinate benefits so that their obligation to pay is reduced by any amount paid on an accident, disability, or health policy. Minn. Stat. §65B.61(3) (1988). While the Supreme Court has recognized that some double recovery may result, it found that double recovery was intended by the Legislature. Wallace v. Tri-State Ins. Co., 302 N.W.2d 337 (Minn. 1980) (health care benefits); Hoeschen v. Mutual Service Casualty Ins. Co., 359 N.W.2d 677 (Minn. App. 1984) (army paid health care costs); Demning v. Grain Dealers Mut. Ins. Co., 411 N.W.2d 571 (Minn. App. 1987) (social security benefits).

Since the no-fault insurer is primary, all benefits must be awarded to Claimant, without regard

to whether payments have been made for medical expenses or wage loss from other sources.

8. Health Insurance Discounting. A no-fault automobile insurer has a duty to provide basic economic benefits to reimburse an injured person's loss even when the injured person is entitled to compensation from a different source. Minn. Stat. §65B.61, Subd. 1 (1988). Reducing an insured's loss on the basis of discounts is inconsistent with the No-Fault Act's designation of basic economic loss benefits as primary and would violate the Act's prohibition of the coordination of benefits. Minn. Stat. §65B.43, Subd. 7, Minn. Stat. §65B.44, Subd. 1, Minn. Stat. §65B.61, Subd. 1, 3. If there is a windfall either to an insurer or to an insured, the windfall should go to the insured. Stout v. Amco Ins. Co., 645 N.W. 2d 108 (Minn. 2002)

9. Mandatory Interest/Penalty. Benefits are "overdue" if not paid within 30 days after the insurer receives reasonable proof of loss. M.S. §65B.54, subd. 1 (1990).

Even when an insurer has a good faith basis to contest a claim, the eventual award of benefits must include the interest/penalty. Record v. Metropolitan Transit Commission, 284 N.W.2d 542 (Minn. 1979). The Supreme Court has required payment even when there was a retroactive change in the law requiring payment of benefits. (Steich v. American Family, 358 N.W.2d 396 (Minn. 1984) and where there was a coverage dispute between two insurers (Pederson v. All Nation, 294 N.W.2d 693 (Minn. 1980)).

When denying a claim, a no-fault insurer voluntarily assumes the risk of paying interest when benefits are ultimately awarded. Pederson, 294 N.W.2d at 696.

The date from which interest is to be calculated is important. The Court has consistently held that interest is to be calculated from "the earliest date plaintiff gave reasonable notice of a possible claim of right." Haagenson v. National Farmers Union, 277 N.W.2d 648, 653 (Minn. 1979) and Pederson, 294 N.W.2d at 696 (emphasis added).

Where an insurer has terminated payment of benefits, there is no continued obligation to present ongoing bills to the insurer. It would be an exercise in futility to require the claimant to continue to submit bills to the no-fault insurer after payment of benefits has been denied. Indeed, most insurers prefer not to receive ongoing bills after the denial. Thus, in cases such as this where the no-fault insurer has cut-off payment of no-fault benefits, the date for beginning interest calculations is the date the insurer constructively denied payment: 30 days after the loss accrued. See, Perry v. State Farm Mutual Automobile Insurance Company, 506 F. Supp. 130 9D. Minn. 1980).

The award of statutory penalty interest is not a matter of arbitrator discretion. Where no-fault benefits are awarded, the award of statutory penalty interest must follow on those amounts. Several

district courts have held that where a no-fault arbitrator has failed to make such an award, the arbitration award must be modified to include interest. See e.g., Cotona v. Farmers Insurance Co., Hennepin County File No.90-18298 (order and memorandum dated November 29, 1990). This mandatory, non- discretionary nature of the interest award is further emphasized by No-Fault Arbitration Rule 32, which now states that" [t]he arbitrator must award interest when required by M.S.A. 65B.54".

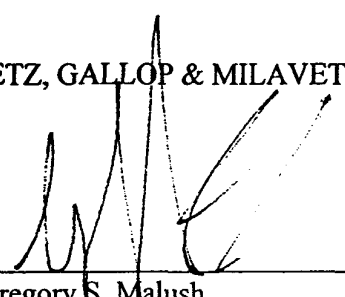
10. **Costs.** The claimant's costs in filing this arbitration should be awarded. Minnesota No-Fault arbitration rules provide under Rule 32 that the arbitrator may grant any remedy or relief that the arbitrator deems just and equitable consistent with the Minnesota No-Fault act. The rule goes on, the state that the arbitrator may award arbitration fees as provided in Rule 39.

CONCLUSION

Because the medical bills here claimed are reasonable and necessary and arise from the accident and because the wage loss was caused by an inability to work from the injury, and because replacement services were reasonably incurred as a result of the accident, all overdue benefits must be awarded to Claimant, along with costs and statutory interest.

Dated: 1/4/04

MILAVETZ, GALLOP & MILAVETZ, P.A.



Gregory S. Malush
Attorneys for Claimant
1915 - 57th Avenue North
Brooklyn Center, MN 55430
(763) 560-0002

GSM:lmc
arb\chanson.stm

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

MAY 24 2004

In re:

Chapter 7

Cristina Renee Hanson,

Bky Case No. 03-40673-NCD

Debtor(s).

APPLICATION TO REOPEN BANKRUPTCY CASE

Julia A. Christians, the previously appointed Trustee of the estate of the above-named debtor, applies to the Court to reopen the above-captioned case for the purpose of administering assets, which were discovered by the Trustee after the case was closed.

Upon information and belief, the above-referenced debtor is the owner of a non-exempt, pre-petition personal injury action arising from a January 31, 2002, automobile accident, which had not been previously disclosed to this Court or to the Trustee. This alleged property interest may be property of the Estate.

WHEREFORE, the Trustee respectfully applies to the Court to reopen the bankruptcy case and allow the Trustee to investigate this matter.

Dated: May 21, 2004

/e/ Julia A. Christians
Julia A. Christians, Trustee
One Financial Plaza, Suite 2500
120 South Sixth Street
Minneapolis, MN 55402
(612) 338-5815

VERIFICATION

Julia A. Christians, being duly sworn, says that she is the previously appointed Trustee in this action, that she has read this Application and that it is true of her own knowledge, to the best of her information and belief.

/e/ Julia A. Christians
Julia A. Christians

Y:\doc\04\040160\hanson App Reopen Case.doc

Exhibit H-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Cristina Renee Hanson,

Debtor,

Bky. Case No. 03-40673-NCD

**TRUSTEE'S STATEMENT OF
INSUFFICIENT FUNDS TO
PAY FILING FEE**

The undersigned former Trustee of the estate of the Debtor named below states under penalty of perjury that filed herewith:

- 1) is an Application to Reopen Bankruptcy Case;
- 2) that the Trustee is without sufficient cash in the estate to pay the filing fee to commence this re-opening;
- 3) the Trustee will pay the filing fee to the clerk if and when monies become available in the estate, pursuant to the Judicial Conference Schedule of Fees for the Bankruptcy Courts, prescribed under 28 U.S.C. §1930(b).

Dated: May 21, 2004

/e/ Julia A. Christians
Julia A. Christians, Trustee
One Financial Plaza, Suite 2500
120 South Sixth Street
Minneapolis, MN 55402
(612) 338-5815

Y:\doc\04\040160\hanson Insufficient Funds Reopen.doc

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Chapter 7

Cristina Renee Hanson,

Bankr. No. 03-40673-NCD

Debtor(s)

UNSWORN CERTIFICATE OF SERVICE

I, Lori A. Frey, declare under penalty of perjury that on May 21, 2004, I mailed copies of the attached **Application to Reopen Bankruptcy Case and Trustee's Statement of Insufficient Funds to Pay Filing Fee** by first class mail postage prepaid to each entity named below at the address stated below for each entity:

Cristina Renee Hanson
3010 Winnetka Avenue, Apt. 227
Minneapolis, MN 55427

Craig W. Andresen, Esq.
2001 Killebrew Drive, Suite 330
Bloomington, MN 55425

U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Executed on: May 21, 2004

/e/ Lori A. Frey
Lori A. Frey, Paralegal
Lapp, Libra, Thomson, Stoeber &
Pusch, Chartered
120 South Sixth Street, Suite 2500
Minneapolis, MN 55402
612/338-5815

Y:\doc\04\040160\hanson unsworn reopen.doc

H-3

LAPP, LIBRA, THOMSON, STOEbNER & PUSCH
CHARTERED
ATTORNEYS AT LAW

WILLIAM S. LAPP
DAVID A. LIBRA*
RICHARD T. THOMSON
JOHN R. STOEbNER*
GREGORY D. PUSCH
JULIA A. CHRISTIANS
DAVID A. HARBECK
RALPH V. MITCHELL
DAVID C. WEINSTEIN†
BRADLEY J. HINTZE ‡

WILLIAM S. GLEW, OF COUNSEL

ONE FINANCIAL PLAZA
SUITE 2500
120 SOUTH SIXTH STREET
MINNEAPOLIS, MINNESOTA 55402

TELEPHONE (612) 338-5815
FACSIMILE (612) 338-6651

*REAL PROPERTY LAW SPECIALIST
CERTIFIED BY THE MINNESOTA STATE BAR ASSOCIATION
†ALSO LICENSED IN CONNECTICUT AND NEW YORK
‡ALSO ADMITTED IN WISCONSIN

WRITER'S DIRECT DIAL: (612) 343-4960
E-MAIL: jchristians@lappibra.com

May 27, 2004

Gregory S. Malush, Esq.
Milavetz Gallop & Milavetz PA
1915 - 57th Avenue North
Brooklyn Center, MN 55430

JUN - 1 2004

RE: Cristina Renee Hanson, debtor
BKY No. 03-40673-NCD

Dear Mr. Malush:

In order to protect the interests of the bankruptcy estate in the debtor's personal injury action, and your rights to retain fees on any portion of the recovery attributable to the estate, I would like to hire you and your law firm on the same 1/3 contingency basis that the debtor hired you. Accordingly, enclosed for your review and execution please find an Application for Approval of Employment of Attorney. If the Application is acceptable, please sign and date it where indicated. In addition, please provide me with a copy of your retainer agreement, so I can attach that to the Application as Exhibit A. Once the United States Trustee and the U.S. Bankruptcy Court have approved the Application, I will provide you with a copy.

If you have any questions, please contact me.

Sincerely,



Julia A. Christians

JAC:laf
enclosure
cc: Cristina Hanson
Craig Andresen
04-160

Exhibit I-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:	)	Chapter 7
	)	BKY Case No. 03-40673-NCD
Cristina Renee Hanson,)	
)	
Debtor(s))	
)	

APPLICATION FOR APPROVAL OF EMPLOYMENT OF ATTORNEY

1. Applicant is the trustee in this case.
2. Applicant believes that the employment of an attorney is necessary to represent or assist the trustee in carrying out the trustee's duties as follows: to represent the bankruptcy estate in the debtor's newly discovered, undisclosed personal injury action, which was not claimed exempt by the debtor.
3. Gregory S. Malush of Milavetz, Gallop & Milavetz, P.A., 1915 – 57th Avenue North, Brooklyn Center, MN 55430, 763-560-3908, is qualified by reason of practice and experience to render such representation or assistance.
4. Proposed compensation and reimbursement of expenses is as follows: Upon the same contingency fee basis, plus reimbursement of costs, as that set forth in the retainer agreement by and between debtor and Milavetz, Gallop & Milavetz, P.A., attached hereto as Exhibit "A" and incorporated herein by reference, subject to Bankruptcy Court approval, with the estate having no obligation for fees, costs, or disbursements in the event the estate realizes no recovery.
5. Said professional has disclosed to the undersigned that he has the following connections with the debtor(s), creditors, any other party-in-interest, their respective attorneys and accountants, the United States Trustee or any person employed in the Office of the United States Trustee: He is currently representing the debtor in this personal injury action.
6. The trustee has made the following efforts to recover the asset prior to submitting this Application: The Trustee has given written notice of the Trustee's claim to any and all recovery, since this asset is not claimed exempt by the debtor.

WHEREFORE, applicant prays that the Court approve such employment by the trustee.

Dated: May 27, 2004

/e/ Julia A. Christians
Julia A. Christians, Trustee
One Financial Plaza, Suite 2500
120 South Sixth Street
Minneapolis, MN 55402
(612) 338-5815

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:	)	Chapter 7
	)	BKY Case No. 03-40673-NCD
Cristina Renee Hanson,)	
)	
Debtor(s))	
)	

VERIFIED STATEMENT PURSUANT TO FEDERAL RULE 2014(a)

I, Gregory S. Malush of Milavetz, Gallop & Milavetz, P.A., the professional named in the application for employment on behalf of the above named bankruptcy estate, declare under penalty of perjury the following:

1. I do not hold or represent any interest adverse to the estate and am disinterested as required by 11 U.S.C. § 327.
2. I do not have any connections to the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the offices of the United States Trustee, except for the following: I am currently representing the debtor in this personal injury action.

Dated: _____, 2004

Gregory S. Malush
Milavetz, Gallop & Milavetz, P.A.
1915 – 57th Avenue North
Brooklyn Center, MN 55430
763-560-3908

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:	)	Chapter 7
	)	BKY Case No. 03-40673-NCD
Cristina Renee Hanson,)	
)	
Debtor(s))	
)	

ORDER

On _____, 2004, the Application to Employ Gregory S. Malush of Milavetz, Gallop & Milavetz, P.A., as attorney of the estate came before the undersigned. Based on the Application, the Recommendation of the United States Trustee, and pursuant to the provisions of Title 11, United States Code, § 327,

IT IS HEREBY ORDERED the professional employment applied for is hereby approved subject to the limitations on compensation provided by Title 11, United States Code, § 328.

Dated: _____

United States Bankruptcy Judge

Y:\doc\04\040160\hanson 252 malush.doc

**CRAIG W. ANDRESEN
ATTORNEY AT LAW**

**2001 KILLEBREW DR., SUITE 330
BLOOMINGTON, MINNESOTA 55425**

**TELEPHONE (952) 831-1995
FAX (952) 854-4114**

WEBSITE: www.cwalaw.com

Member, Bankruptcy Section
Minnesota State Bar Association

Admitted in 1987
Licensed in State & Federal Courts

June 29, 2004

**TO: Habbo G. Fokkena, U.S. Trustee
Julia Christians, Trustee
Any other party entitled to notice**

**Re: Cristina Renee Hanson
Bky. No. 03-40673-NCD**

Dear Sir or Madam:

Enclosed and served upon you by U.S. Mail, please find the following:

Amended Schedule C.

Please call if you have any questions.

Very truly yours,



Craig W. Andresen
Attorney at Law

Enclosures
CWA:cec

Exhibit J-1

In re Cristina Renee Hanson

Case No. 03-40673-NCD

Debtor

SCHEDULE C. PROPERTY CLAIMED AS EXEMPT

Debtor elects the exemptions to which debtor is entitled under:

[Check one box]

- ☒ 11 U.S.C. §522(b)(1): Exemptions provided in 11 U.S.C. §522(d). Note: These exemptions are available only in certain states.
☐ 11 U.S.C. §522(b)(2): Exemptions available under applicable nonbankruptcy federal laws, state or local law where the debtor's domicile has been located for the 180 days immediately preceding the filing of the petition, or for a longer portion of the 180-day period than in any other place, and the debtor's interest as a tenant by the entirety or joint tenant to the extent the interest is exempt from process under applicable nonbankruptcy law.

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Market Value of Property Without Deducting Exemption
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
Greater MN Credit Union: savings	11 USC § 522(d)(5) - unused homestead	25.00	25.00
TCF Bank: checking	11 USC § 522(d)(5) - unused homestead	900.00	2,000.00
	11 U.S.C. § 522(d)(5) - unused homestead	1,100.00	
<u>Security Deposits with Utilities, Landlords, and Others</u>			
Security/damage deposit	11 U.S.C. § 522(d)(5) - unused homestead	400.00	400.00
<u>Household Goods and Furnishings</u>			
Household goods and furnishings	11 U.S.C. § 522(d)(3) - household goods, clothing	2,000.00	2,000.00
Computer, printer & monitor (5 years old)	11 U.S.C. § 522(d)(5) - unused homestead	150.00	150.00
Household tools	11 U.S.C. § 522(d)(3) - household goods, clothing	25.00	25.00
<u>Wearing Apparel</u>			
Clothing	11 U.S.C. § 522(d)(3) - household goods, clothing	1,500.00	1,500.00
<u>Furs and Jewelry</u>			
Jewelry	11 U.S.C. § 522(d)(4) - jewelry	600.00	600.00
<u>Firearms and Sports, Photographic and Other Hobby Equipment</u>			
Recreational equipment	11 U.S.C. § 522(d)(5) - unused homestead	100.00	100.00
<u>Alimony, Maintenance, Support, and Property Settlements</u>			
Back child support	11 U.S.C. § 522(d)(10)(D) - alimony, child support	3,400.00	3,400.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
2002 Chevrolet Cavalier	11 U.S.C. § 522(d)(2) - motor vehicle	2,775.00	10,500.00
Proceeds expected from Personal Injury case re: 1-31-02 auto accident; settlement amount requested = \$75,000.00, exact amount unknown.	11 U.S.C. sec. 522(d)(5)	6,975.00	UNKNOWN
	11 U.S.C. sec. 522(d)(11)(D)	17,425.00	
Also, any proceeds awarded for wages lost due to inability to work as a result of accident.	11 U.S.C. sec. 522(d)(11)(E)	100%	

0 continuation sheets attached to Schedule of Property Claimed as Exempt

Petitioner represented by
Gregory S. Malush, Atty.

J-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Cristina Renee Hanson,

SIGNATURE DECLARATION

Debtor(s).

Case No. 03-40673

- ☐ PETITION, SCHEDULES & STATEMENTS
☐ CHAPTER 13 PLAN
☐ SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION
☐ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
☐ MODIFIED CHAPTER 13 PLAN
☒ OTHER (Please describe: AMEND SCHEDULE C only)

I [We], the undersigned debtor(s) or authorized representative of the debtor, ***make the following declarations under penalty of perjury:***

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- **[individual debtors only]** If no Social Security Number is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable; and
- **[corporate and partnership debtors only]** I have been authorized to file this petition on behalf of the debtor.

Date: 5-10-04

X Cristina Hanson
Signature of Debtor or Authorized Representative

X _____
Signature of Joint Debtor

Cristina Hanson
Printed Name of Debtor or Authorized Representative

Printed Name of Joint Debtor

**CRAIG W. ANDRESEN
ATTORNEY AT LAW**

**2001 KILLEBREW DRIVE, SUITE 330
BLOOMINGTON, MINNESOTA 55425**

**TELEPHONE (952) 831-1995
FAX (952) 835-1554**

WEBSITE: www.cwalaw.com

Member, Bankruptcy Section
Minnesota State Bar Association

Admitted in 1987
Licensed in State & Federal Courts

July 12, 2004

Julia Christians, Trustee
120 South 6th Street, Suite 2500
Minneapolis, MN 55402

**Re: Cristina R. Hanson
Chapter 7 Bky. No. 03-40673
Date Filed: January 28, 2003**

Dear Ms. Christians:

I received your objection to Ms. Hanson's exemption of her personal injury case. Your response contains a serious error, in that it claims that Ms. Hanson did not voluntarily disclose the asset to you as trustee. I believe you are aware that Ms. Hanson did disclose the asset to you through her attorney, Mr. Malush, and through me as well, prior to your filing an application with the bankruptcy court to reopen the case, and this fact may have slipped your mind while you drafted your objection. I would like to discuss this matter with you prior to my filing a response to your objection. To this end, I telephoned you at approximately 3:00 p.m. on Friday, July 9, 2004, and left you a detailed message.

You are correct in your assertion that Ms. Hanson did not list the injury claim in her bankruptcy papers as originally filed. She states she was referred to me for a bankruptcy case by Mr. Malush, who was her injury attorney. She states she was informed by Mr. Malush that he would see to it that I listed the injury claim as required in the bankruptcy schedules.

Ms. Hanson further states that she may have mentioned the existence of the injury claim at the section 341(a) meeting. If necessary, I will be requesting a copy of the tape to see if there a record of this.

At about noon on May 1, 2004, I received a telephone call from Mr. Malush. He stated he recently talked with Ms. Hanson inquiring about her injury case and its status with the chapter 7 trustee. Mr. Malush informed me that he had just checked her bankruptcy papers, and was dismayed to see that the injury case was not listed. He explained that the purpose of his call was to find out from me how we ought to proceed in light of the unscheduled asset. Mr. Malush explained that he had much less expertise than me in the field of bankruptcy, and he wondered if he should delay discussing the matter with you until I had amended the bankruptcy schedules. I informed Mr. Malush that the overriding consideration was to put the trustee on notice immediately of the existence of the asset. Mr. Malush was concerned that non-disclosure of the asset to the trustee could create difficulty with the personal injury matter. In response, I informed him the best way to proceed was to contact the trustee

on his own initiative immediately. To this end, I told him to call you, Julia Christians, at your office telephone number, which number I either provided to him at that time or informed him where to find it.

Several days later, Ms. Hanson informed me that Mr. Malush had contacted you as I instructed. Furthermore, as you can see from the date on my amended schedule form, Ms. Hanson appeared in my office on May 10, 2004, and signed her amended schedule regarding the injury case. Also, I have a copy in my file of a letter I mailed to you on May 18, 2004, explaining the existence of Ms. Hanson's personal injury claim and attaching numerous relevant documents which apparently you had requested from me during our telephone call. I note that your application to reopen the bankruptcy case is dated May 21, 2004. It is date stamped as having been received in my office on May 24, 2004. Therefore, it is not possible as you state in your motion that the debtor failed to notify the trustee of the existence of the asset until after you applied to reopen the case. I myself provided you with the relevant documents about the injury case at least several days before you applied to reopen the case. Furthermore, as noted above, you were informed of the existence of the injury case by the debtor's injury lawyer, Mr. Malush, at my direction on or about May 3, 2004. This is, of course, how you became aware of the injury claim in the first place.

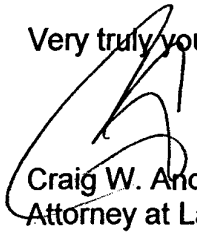
Additionally, at some time in May, 2004, I spoke with you on the telephone regarding the timing of the events referred to above, for the specific purpose of letting you know that Mr. Malush contacted you on or about May 3, 2004, at my direction. I can assure you this is exactly what happened, but even if you do not accept my version of the events, you have at least been made aware, many weeks ago, of my claim that I instructed Mr. Malush to contact you about the asset.

What I am objecting to is the omission from your objection of any mention of these facts. Your objection does not inform the court that you and I spoke on the telephone about my instructing Mr. Malush to contact you about the existence of the asset; it also fails to inform the court that I sent you numerous documents regarding Ms. Hanson's injury case prior to your filing the application to reopen the case. Since you are claiming the debtor concealed the asset from you as trustee, these are critical facts which appear to form the entire basis for your argument. I believe your objection contains serious errors and omissions of important facts known to you, as it relates to the events of May 2004.

If you are objecting to Ms. Hanson's claim of exemption based upon her failure to list the asset in her bankruptcy papers as originally filed then that is one thing. It is quite another for you to state, wrongly, that she continued to conceal the asset even after Mr. Malush informed you of its existence. As noted above, it was at Ms. Hanson's, and my, direction that Mr. Malush informed you of the existence of the asset.

I would be grateful if you could contact me to discuss these matters. I will be out of town from July 13, 2004, and returning July 18, 2004. Given the nature of the matters I am discussing with you, I do not desire to file a response until you and I determine which points we agree upon or disagree upon. I look forward to hearing from you soon.

Very truly yours,


Craig W. Andresen
Attorney at Law

CWA/ja

7-13-04 cc: client & Greg Malush, Atty (by KU). cc
7-26-04 cc: " " by cc.

Exhibit K-2

MILAVETZ, GALLOP & MILAVETZ, P.A.

ROBERT J. MILAVETZ
JONATHAN D. GALLOP **
ALAN S. MILAVETZ
STEVEN B. LEVINE
BARBARA N. NEVIN
GREGORY S. MALUSH
JOSEPH RYMANOWSKI, JR. **
ERIC R. LEE
CHAD WM. SCHULZE
ADAM C. WADD
ALLEN H. AARON**

**OF COUNSEL

ATTORNEYS AT LAW

1915 - 57th AVENUE NORTH
BROOKLYN CENTER, MINNESOTA 55430

TOLL FREE: 1-800-365-6666
FAX: (763) 560-3908

lawpage.com

LEGAL ASSISTANTS:

DALE B. ZILLHART
AMY WESTBY
JULIE L. BUTTRAM
JULIAN SANTANA*
DARCI-JO KING
COURTNEY A. MOORE
SUSAN A. DOHERTY

*SE HABLA ESPANOL

INVESTIGATORS:

PATRICK O. SHAEFFER

JUL 14 2004

Gregory S. Malush
763-560-0002

July 9, 2004

~~Mr. Craig Andresen~~
~~Attorney at Law~~
~~2001 Kalebrew Dr., Suite 330~~
~~Bloomington, MN 55425~~

Ms. Christina Hanson
18265 263rd Avenue
Big Lake, MN 55309

Re: Christina Hanson
Our File No.: 30577
Bky. No. 03-40673-NCD

Dear Mr. Andresen & Ms. Hanson:

As you aware, the trustees asked me to represent both you and her in this matter.

Please call to discuss. Thank you very much.

Very truly yours,

MILAVETZ, GALLOP & MILAVETZ, P.A.

Gregory S. Malush
Gregory S. Malush

GSM:sd

/Hanson 07-09-2004

Exhibit C

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Cristina Renee Hanson

SIGNATURE DECLARATION

Debtor(s).

Case No. 03-40673-NCD

- ☐ PETITION, SCHEDULES & STATEMENTS
☐ CHAPTER 13 PLAN
☐ SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION
☐ AMENDMENT TO PETITION, SCHEDULES & STATEMENTS
☐ MODIFIED CHAPTER 13 PLAN
☒ OTHER (Please describe: DEBTOR'S RESPONSE, MEMORANDUM, & EXHIBITS)

I, the undersigned debtor, ***make the following declarations under penalty of perjury:***

- The information I have given my attorney and provided in the electronically filed Response, Memorandum, and Exhibits, as indicated above, is true and correct; and
- I consent to my attorney electronically filing with the United States Bankruptcy Court my Response and Memorandum, together with a scanned image of this signature declaration.

Date: 7.29.04

X Cristina R. Hanson
Signature of Debtor or Authorized Representative

X _____
Signature of Joint Debtor

Cristina R. Hanson
Printed Name of Debtor or Authorized Representative

Printed Name of Joint Debtor